IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

OP.No. 3997 of 1996(A)

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PETITIONER:

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1. AKHILA THIRUVITHAMCORE MALA ARAYA MAHA SABHA,
REP. BY ITS SECRETARY,
K.R.JANARDHANAN, KOONAMAKKAL,
MOOLAKKAD P.O.,
THODUPUZHA,
IDUKKI DISTRICT.

2. C.N.MOHANAN, S/O.NARAYANAN,
AGED 30 YEARS,
CHANJAPLACKAL HOUSE,
VELLARAMKUNNU,
POOYAMKUTTY P.O.,
IDUKKI DISTRICT.

2. V.A.KRISHNANKUTTY, VALEEKKATTIL,
VELLARAMKUTHU, POOYAMKUTTY P.O,
IDUKKI DISTRICT.

3. A.R.RAMANKUTTY,
ADUKATTU,
VELLARAMKUTHU,
POOYAMKUTTY P.O.,
IDUKKI DISTRICT.

4. AKHILA THIRUVITHAMCORE MALA ARAYA MAHA SABHA,
REP. BY ITS SECRETARY,
K.R.JANARDHANAN, KOONAMAKKAL,
MOOLAKKAD P.O.,
THODUPUZHA,
IDUKKI DISTRICT.

BY ADV. DR.K.P.KYLASANATHA PILLAY
SRI.P.SREEKUMAR

RESPONDENTS:
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1. STATE OF KERALA, REP. BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE COMMISSIONER AND SECRETARY,
REVENUE DEPARTMENT, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.

3. THE COMMISSIONER AND SECRETARY,
SC & ST DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

4. THE COMMISSIONER AND SECRETARY,
FOREST DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

5. THE DISTRICT COLLECTOR,
IDUKKI DISTRICT, IDUKKI.

6. THE DIVISIONAL FOREST OFFICER,
MALAYATTOOR DIVISION,
IDUKKI.

7. RANGE OFFICER, KUTTAMPUZHA RANGE,
MALAYATTOOR DIVISION,
IDUKKI DISTRICT.

8. ASSISTANT DIRECTOR,
SURVEY & LAND RECORDS,
KAKKANAD,
THRIKKAKARA,
ERNAKULAM.

9. UNION OF INDIA REPRESENTED BY THE SECRETARY,
HUMAN RESOURCES MINISTRY,
NEW DELHI..

BY GOVERNMENT PLEADER, SRI PRAKASHAN
GEORGE C.P.THAKANAN
SRI.JOHN VARGHESE, ASSISTANT SG

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 25/06/2007, ALONG WITH OP NO. 7831 OF 1996 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP.No. 3997 of 1996(A)

APPENDIX

ORDER ON C.M.P.NOS. 9030/1996 AND 7003/1997 IN O.P.NO.3997/1996

CLOSED.

SD/-K.R.UDAYANABHANU, JUDGE

25/06/2007

PETITIONER'S EXTS:

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| EXT.P1 | TRUE COPY OF NOTIFICATION IN THE GAZETTE AS PER D1-9195/72 DATED 15/3/1974 ISSUED BY THE GOVERNMENT. |
| EXT.P2 | TRUE COPY OF RE-SURVEY FIELD REGISTER. |
| EXT.P3 | TRUE COPY OF SURVEY MAP OF FIELD NO.24 OF KUTTAMPUZHA VILLAGE. |
| EXT.P4 | TRUE COPY OF LETTER NO.19298/C1/86/FOREST DATED 18/12/1986 ISSUED BY THE GOVERNMENT. |
| EXT.P5 | TRUE COPY OF LETTER NO.B1/5919/94 DATED 24/8/1994 OF THE 6TH RESPONDENT SENT A REPLY TO THE PEOPLES COUNCIL FOR SOCIAL JUSTICE. |
| EXT.P6 | TRUE COPY OF RECOMMENDATION LETTER DATED 8/6/1994 OF THE MLA |
| EXT.P7 | TRUE COPY OF APPLICATION DATED 5/11/1994 SUBMITTED BY THE 1ST RESPONDENT TO THE 8TH RESPONDENT. |
| EXT.P8 | TRUE COPY OF LETTER NO.4977/WCA.2/89/LG DATED 29/8/1995 ISSUED BY THE SECRETARIAT OF THE KERALA LEGISLATURE. |
| EXT.P9 | TRUE COPY OF REPRESENTATION DATED 22/1/1996 SUBMITTED BY THE PETITIONERS BEFORE THE MINISTER. |
| EXT.P10 | TRUE COPY OF ACK.CARD SHOWING RECEIPT OF EXT.P9 BY THE GOVERNMENT. |
| EXT.P11 | TRUE COPY OF THE CHARGE SHEED IN OFFENCE NO.33/94 FILED BY THE 7TH RESPONDENT. |
| EXT.P12 | TRUE COPY OF SUMMONS ISSUED TO SMT.SUKUMARI A TRIBAL WOMAN WIFE OF SRI SOMAN, ACCUSED IN C.C.NO.236/1995 DATED 4/1/1996 |
| EXT.P13 | TRUE COPY OF ORDER ISSUED BY THE DEVELOPMENT DEPT. VIDE NO.D.DIS.2676/49/DD, DATED 2/12/49 |

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| EXT.P14 | TRUE COPY OF RELEVANT PART OF THE RULES GO (P) NO.131/93/80 DATED 19/3/1993 |
| EXT.P15 | TRUE COPY OF DETAILS GRANTING PATTAYAM TO PERSON IN WILDLIFE SANCTUARY |
| EXT.P16 | TRUE COPY OF LETTER NO.9242/C1/91F & WLD DATED 11/8/1999 ISSUED BY COMM.& SECRETARY TO GOVERNMENT TO THE INSPECTOR GENERAL OF FORESTS. |
| EXT.P17 | TRUE COPY OF LETTER NO.8-118/80FC DATED 2/4/92 OF THE ASST.INSPECTOR GENERAL OF FORESTS. |

RESPONDENTS' EXTS:-

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| EXT.R6(a) | TRUE COPY OF LETTER NO.C.618/2003 DATED 6/3/2003 ISSUED BYTHE TRIBAL DEVELOPMENT OFFICER, MUVATTUPUZHA. |
| EXT.R6(b) | TRUE COPY OF THE MINUTES DRAWN ON 03/03/2003 |
| EXT.R6(c) | TRUE COPY OF THE SITE INSPECTION REPORT |
| EXT.R6(d) | TRUE COPY OF THE REPORT SUBMITTED TO THE DISTRICT COLLECTOR WHICH WAS SENT TO THE DIVISIONAL FOREST OFFICER, MALAYATTOOR. |

\\TRUE COPY//

**K.R.UDAYABHANU, J.**

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O.P.Nos. 3997/1996(A) & 7831/1996(G)

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Dated this the 25th day of June, 2007

**J U D G M E N T**

Petitioners 1 to 3 are described as tribals belonging to Mala Araya Tribal Community. The fourth petitioner is the organisation representing Mala Arayas and the tribals in general. The grievance of the petitioners is with respect to the difficulties faced by the tribal population of Vellaramkuthu Girijan Colony, situated within the Malayattoor Forest Division in Kuttampuzha Forest Range. It is submitted that the tribal families living within the Vellaramkuthu settlement is being harassed by the forest officials, when they enter the forest areas for collecting minor forest produce required for their sustenance. According to the petitioners, they are entitled to collect minor forest produce. They have also sought for getting the pattayams issued with respect to the properties over which they are in occupation. It is further submitted that an area of 210.700 hectares of land are in occupation of the above tribals.

It is understood that after the resurvey operation, that area has been marked as puramboke land. There is dispute in this regard between the Forest and the Revenue departments. It is also submitted that cases are registered against the tribals, alleging trespass and destruction of the forest. Hence, a direction is sought to the State and its functionaries to restrain them from harassing the tribals and also to initiate action for granting title deeds to the tribals in respect of the land possessed by them; to issue a direction to the revenue and forest officials to restrain them from destroying the cultivation and crops of tribals; to direct the State to consider the case of non-tribals only after recognising the property rights of the tribals; to withdraw the cases registered against the tribals.

2. It is submitted by the Government Pleader that the matters can be sorted out, if the necessary representation is presented before the Chief Secretary, as the matter involves different departments like Revenue and Forest.

3. O.P.No.7831/1996 is a petition filed by the Akhila Thiruvithamcore Mala Araya Maha Sabha seeking for similar reliefs.

In the above circumstances, both the petitions are disposed of, directing the petitioners to submit a representation containing the required details to the Chief Secretary and, the Chief Secretary/Government shall consider the same and after hearing the petitioners, dispose of the same on merits, at the earliest.

The original petitions are disposed of accordingly.

**K.R.UDAYABHANU,**
**Judge**

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**K.R.UDAYABHANU, J.**

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O.P.Nos. 3997/1996(A) & 7831/1996(G)

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**J U D G M E N T**

25th June, 2007